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ATTORNEYS-AT-LAW

Client Memorandum

THE DIRECTORS REGISTRATION AND LICENSING LAW, 2014
THE DIRECTORS REGISTRATION AND LICENSING (REGISTRATION AND LICENSING) REGULATIONS, 2014 (the "Law")

June 2014

The new Law requiring registration and licensing of Directors of a regulated Cayman Mutual Fund (but not a private equity vehicle) and most entities involved in securities business which are exempted by CIMA from licensing under the Securities Investment Business Law, is now effective.

- The effective date of the Law is 4th June 2014.
- The Law applies to directors of a covered entity that is (1) regulated under the Mutual Funds Law (2013 Revision) or (2) regulated under section 5(4) and paragraphs 1 and 4 of the Fourth Schedule of the Securities Investment Business Law (2011 Revision).
- A non-professional director being a person acting for less than twenty (20) of such companies and a professional director, being a person acting for more than twenty (20) covered entities, must be licensed within three (3) months of June 4, 2014. A corporate director must be licensed within six (6) months of June 4, 2014.
- Despite popular comment to the contrary, the database of registered and licensed directors will not be available to the public. A search of the database will reveal only the name of the director the type of registration or license number and the date of registration or licensing.
- The registered office of each covered entity will receive a unique identification number for each director of a covered entity at that registered office. Registration or licensing can then be undertaken but only via the CIMA web portal.
- Non-professional directors seeking registration will be required to file the following information:
    - Full legal name;
    - Date and place of birth;
    - Nationalities;
    - Principal and postal address;
    - Email address and telephone number;
    - Whether convicted of a criminal office involving fraud or dishonesty; and
    - Whether the subject of an adverse finding, financial penalty, sanction, disciplinary action or proceeding by a regulator, self-regulatory organization or a professional disciplinary body.
- CIMA may refuse to register a non-professional director if the Authority has information that a) he has been convicted of a criminal offence involving fraud and/or dishonesty or b) he has been convicted of an adverse finding, financial penalty, sanction or disciplinary action or proceeding by a regulator, self-regulatory organization or a professional disciplinary body.
- A director serving on more than twenty (20) covered entities must be licensed as a professional director unless:

    - he is a director, employee, member or officer of a holder of a Companies Management License or a Mutual Fund Administrator's license, in which case, he is nevertheless required to be registered (as a non-professional director as above); or
    - he is a director of a covered entity only by virtue of his association with a Fund Manager of a Regulated Mutual Fund and that Fund Manager is licensed by a recognised overseas regulatory authority. In that event, such person is again required to be registered (as a non-professional director as above).
- A professional director must satisfy the Authority that he has sufficient capacity to carry out his duties and that he is a fit and proper person which implies the same tests as contained in the Mutual Funds Law.
- Only a professional director is required to be covered by D&O insurance which may be that established by the covered entity but in a minimum amount of US$1m per claim. Coverage may be in place with a non Caymanian Insurer.
- A professional director making application for a license must make application through the web portal and provide the following information:
    - Full legal name;
    - Date and place of birth;
    - Nationalities;
    - Email address and telephone number;
    - A fully completed Personal Questionnaire (already available on the Authority's website at www.cimoney.com.ky);
    - Three reference letters, at least one of which must be from a bank; and
    - A copy of a recent police clearance certificate.
- Somewhat more complex provisions apply to the licensing of a corporate director.
- Fees:
    - A non-professional director shall pay an application fee of US$171 together with a fee of US$682 on application and on or before January 15 of each year subsequently pay a fee of US$854;
    - A professional director shall pay an application fee of US$610 together with a fee of US$3,049 on application and on or before January 15 of each year subsequently pay a fee of US$3,658.

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